

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Max Gross	Team: Team # 6	CCRB Case #: 200908296	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 05/25/2009 10:30 PM	Location of Incident: inside 79-68 69th Avenue, 2nd Floor	Precinct: 104	18 Mo. SOL 11/25/2010	EO SOL 11/25/2010	
Date/Time CV Reported Thu, 05/28/2009 3:32 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/28/2009 3:32 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Wright	21501	935991	104 PCT
2. POF Maritza Mendez	04169	907722	104 PCT
3. LT James Lombardi	00000	897890	104 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Louis Marinacci	22579	941229	104 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Wright	Discourtesy: Officer Anthony Wright spoke rudely to § 87(2)(b) inside of § 87(2)(b)	
B.POM Anthony Wright	Force: Officer Anthony Wright used physical force against § 87(2)(b) inside of § 87(2)(b)	
C.POF Maritza Mendez	Force: Officer Maritza Mendez used physical force against § 87(2)(b) inside of § 87(2)(b)	
D.POF Maritza Mendez	Force: Officer Maritza Mendez used a chokehold against § 87(2)(b) inside of § 87(2)(b)	
E.POF Maritza Mendez	Discourtesy: Officer Maritza Mendez spoke rudely to § 87(2)(b) inside of § 87(2)(b)	
F.LT James Lombardi	Abuse: Lieutenant James Lombardi threatened § 87(2)(b) with the use of force inside of § 87(2)(b)	
G.POM Anthony Wright	Abuse: Officer Anthony Wright did not obtain medical treatment for § 87(2)(b) inside of § 87(2)(b) and inside of the 104th Precinct station house.	
H.POM Anthony Wright	Abuse: Officer Anthony Wright refused to provide his name and shield number to § 87(2)(b) inside of the 104th Precinct station house.	
I.POF Maritza Mendez	Abuse: Officer Maritza Mendez refused to provide her name and shield number to § 87(2)(b) inside of the 104th Precinct station house.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On May 28, 2009, § 87(2)(b) filed this complaint with the CCRB by phone [Enc. 3A-B]. She also filed a complaint with Internal Affairs Bureau (IAB) on May 29, 2009, generating log 09-26788 [Enc. 4B-C]. On May 25, 2009, § 87(2)(b) witnessed a domestic dispute occur between her friends § 87(2)(b) and § 87(2)(b) inside of § 87(2)(b) § 87(2)(b) in Queens. § 87(2)(b) fled the scene and called 911, prompting Lieutenant James Lombardi, Officer Louis Marinacci, Officer Anthony Wright, and Officer Maritza Mendez to respond to the location. The following allegations resulted:

- **Allegation A) Discourtesy: Officer Anthony Wright spoke rudely to** § 87(2)(b) inside of § 87(2)(b) § 87(2)(g)
- **Allegation B) Force: Officer Anthony Wright used force against** § 87(2)(b) inside of § 87(2)(b)
- **Allegation C) Force: Officer Maritza Mendez used force against** § 87(2)(b) inside of § 87(2)(b) § 87(2)(g)
- **Allegation D) Force: Officer Maritza Mendez used a chokehold against** § 87(2)(b) inside of § 87(2)(b) § 87(2)(g)
- **Allegation E) Discourtesy: Officer Maritza Mendez spoke rudely to** § 87(2)(b) inside of § 87(2)(b) § 87(2)(g)
- **Allegation F) Abuse of Authority: Lieutenant James Lombardi threatened** § 87(2)(b) with the use of force inside of § 87(2)(b) § 87(2)(g)
- **Allegation G) Officer Anthony Wright refused to provide medical attention to** § 87(2)(b) inside of § 87(2)(b) and inside of the 104th Precinct station house: § 87(2)(g)
- **Allegation H) Abuse of Authority: Officer Anthony Wright refused to provide his name and shield number to** § 87(2)(b) inside of the 104th Precinct station house
- **Allegation I) Abuse of Authority: Officer Maritza Mendez refused to provide her name and shield number to** § 87(2)(b) inside of the 104th Precinct station house: § 87(2)(g)
- § 87(4-b) § 87(2)(g)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old light skinned Hispanic female who stands 5'5'' and weighs 200 pounds. She has brown eyes and brown hair.

Arrest Photograph

- § 87(2)(b) arrest photograph is enclosed in the case file [Enc. 4G]. In the photograph, § 87(2)(b) has no visible facial injuries.

Statement to Medical Personnel

- On § 87(2)(b), § 87(2)(b) admitted herself to the § 87(2)(b) at § 87(2)(b). The triage nurse noted, "§ 87(2)(b) year old female patient presents with bruises for two days... Patient said she was assaulted by police." [Enc. 4A]

Statements to CCRB/IAB

- On May 28, 2009, § 87(2)(b) filed this complaint with the CCRB by phone as well as via the call processing center [Enc. 3A-B]. § 87(2)(g)

- On May 29, 2009, § 87(2)(b) filed a complaint with IAB command center [Enc. 4B-C]. § 87(2)(g)

CCRB Statement

- § 87(2)(b) was interviewed at the CCRB on June 5, 2009 [Enc. 9A-C]. On May 25, 2009, at approximately 10:30pm, § 87(2)(b) was inside her friends § 87(2)(b) and § 87(2)(b) apartment located at § 87(2)(b) § 87(2)(b) in Queens. § 87(2)(b) § 87(2)(b)-old son, § 87(2)(b) and § 87(2)(b) § 87(2)(b)-old son, § 87(2)(b) were also present inside the apartment. The adults were hanging out inside the apartment and drinking shots of vodka. § 87(2)(b) consumed approximately 2-3 shots of vodka, and had become slightly intoxicated as a result. § 87(2)(b) and § 87(2)(b) who had both become intoxicated, began to argue with each other. The feud escalated into a physical altercation, and § 87(2)(b) attempted to break up the fight. Despite her attempts, the altercation continued to escalate, and § 87(2)(b) and § 87(2)(b) began throwing furniture at each other. § 87(2)(b) believed that § 87(2)(b) eventually dialed 911 and requested the police's presence at the apartment.

Initially, two uniformed police officers, identified as Officer Maritza Mendez and Officer Anthony Wright of the 104th Precinct, responded to the scene. Officer Mendez was described as a medium complexion Hispanic female, 5'6''-5'7'', approximately 250 pounds, with curly brown hair, and 30-45 years old. Officer Wright was described as a light skinned black or Hispanic male, approximately 5'6'' with a muscular build and 30-45 years old.

When the officers arrived, § 87(2)(b) had been upstairs in a different room of the apartment with her son, away from § 87(2)(b) and § 87(2)(b). § 87(2)(b) had separated herself from § 87(2)(b) and § 87(2)(b) in order to console her son, who had

become upset by the altercation. Just as she was getting ready to leave, she heard a knock on the front door. When she opened the door, she observed Officer Wright standing outside. Officer Wright began speaking with § 87(2)(b) immediately questioning if she had been smoking marijuana. § 87(2)(b) believed that § 87(2)(b) told the officers that she had been smoking marijuana, although she did not hear any of the conversation between § 87(2)(b) and the officers and she denied smoking marijuana that evening. Officer Wright began asking her questions about the fight between § 87(2)(b) and § 87(2)(b). § 87(2)(b) responded to Officer Wright's inquiries truthfully, speaking to Officer Wright in a respectful tone. After hearing her responses, Officer Wright began accusing § 87(2)(b) of lying to him, and began screaming at § 87(2)(b). Officer Wright then went back to questioning § 87(2)(b) about whether or not she had been smoking Marijuana. § 87(2)(b) denied smoking marijuana. Officer Wright ordered her to sit down and told her "Tell me the fucking truth right now." § 87(2)(b) denied having any marijuana on her, telling the Officer Wright that he could "search wherever he wanted." Officer Wright screamed at § 87(2)(b) "Empty out your bag!" § 87(2)(b) told Officer Wright, "If you want to search my bag fine" and then emptied the contents of her bag out onto the sofa. Officer Wright discovered a single marijuana cigarette which fell out of § 87(2)(b) purse. At this point, a second officer, identified by the CCRB as Officer Mendez, had also arrived upstairs. The officers then continued to question § 87(2)(b) about the domestic incident, imploring her to tell the truth about what she witnessed. Officer Wright then told § 87(2)(b) that she was going to be arrested for marijuana possession.

Officer Wright asked § 87(2)(b) to turn around in order to place her in handcuffs. When she saw the handcuffs, § 87(2)(b) became very upset, pleading with the officers not to arrest her. As she was being placed in handcuffs, § 87(2)(b) began to scream for the officers to call her son's father. Officer Wright then grabbed § 87(2)(b) with his hand by the back of her neck and attempted to push her downwards towards the couch. § 87(2)(b) attempted to turn her neck around, but both officers pushed her forward and began attempting to pull her arms behind her back. Officer Mendez then placed her full body weight on top of § 87(2)(b) body, forcing her downwards onto the couch. This caused § 87(2)(b) face to be pressed into the back of the sofa, and she could not breathe. § 87(2)(b) stated that she was yelling, "I can't breathe, I can't breathe! I need to go to the hospital." § 87(2)(b) began gasping for breath, which caused Officer Mendez to lift her body weight off from on top of her. While the officers were trying to handcuff her, § 87(2)(b) alleged that Officer Wright also grabbed one of her ankles and twisted it while telling her, "Stop kicking your legs." § 87(2)(b) stated that she was not kicking her legs, or resisting arrest at all during this altercation. She stated that she might have been moving her body slightly, but explained that she was just trying to see her son whom she believed was standing at the doorway. Eventually, Officer Wright handcuffed § 87(2)(b) and allowed her to sit upright on the couch and told her to "Sit down and calm the fuck down." § 87(2)(b) informed the officers that she could say whatever she wanted and that she was just exercising her first amendment right of freedom of speech. § 87(2)(b) was still primarily concerned with her son, so while handcuffed, she stood up off the couch in an attempt again to see where inside of the apartment her son was. This prompted Officer Mendez to approach § 87(2)(b) and place both of her hands around § 87(2)(b) neck and squeeze hard enough to constrict her breathing while simultaneously pushing her down to the sofa. § 87(2)(b) estimated that her breathing was constricted for approximately one minute by this maneuver. While doing so, Officer Mendez screamed, "Sit the fuck down and shut the fuck up!" so close to § 87(2)(b) face that she felt saliva hit her face. § 87(2)(b) attempted to get up for a second time, and Officer Wright took one hand and pushed her between her right shoulder and

clavicle bone in order to push her back onto the seat for a second time. § 87(2)(b) stated that this action caused bruising to this area. § 87(2)(b) also alleged that after she was handcuffed, Officer Mendez slapped her in the face once with an open hand. At this point, § 87(2)(b) asked Officer Wright to call an ambulance because she was asthmatic. Officer Wright did not acknowledge her request for medical attention.

After she had been handcuffed, § 87(2)(b) wanted to call her son's father on the phone. The officers would not let her do so, and Officer Mendez told her to "shut the fuck up" multiple times. Officer Mendez also called § 87(2)(b) a "fucking bitch" multiple times. Upon seeing § 87(2)(b) welfare benefit card, Officer Mendez also called § 87(2)(b) a "welfare lowlife." At this point, another officer, identified by the CCRB as Lieutenant James Lombardi, arrived at on the second floor by himself. § 87(2)(b) described Lieutenant Lombardi as a white male wearing in white uniform, approximately 5'10", 250 pounds with grey hair, and about 40-60 years old. When he arrived, Lieutenant Lombardi told § 87(2)(b) "I suggest you shut the fuck up, or I am going to use this taser gun on you. And if that's not good enough, I'm going to use mace on you." § 87(2)(b) stated while he was saying this to her, he was pointing the taser gun at her. She described the gun as yellow and black and approximately 6 inches in size. § 87(2)(b) was extremely frightened by this action, and at this point stopped talking altogether as she feared being shot with the taser darts.

§ 87(2)(b) was then removed from the room and taken to an awaiting RMP outside of the apartment building. Once outside of the apartment building, § 87(2)(b) observed three other officers identified as Officer Louis Marinacci, Officer Charles Sadler, and Officer Edwin Collado, all also from the 104th Precinct. According to § 87(2)(b) none of these officers witnessed her arrest. § 87(2)(b) was then transferred to the 104th station house in the back of a marked RMP, not driven by Officer Wright or Officer Mendez. When she arrived at the 104th Precinct station house, § 87(2)(b) was lodged inside of a holding cell by herself. After several minutes, Officer Wright appeared at the cell and apologized for how the situation had unfolded. While he was speaking to her, § 87(2)(b) stated that Officer Wright intentionally covered his badge with his arm. § 87(2)(b) did not want to speak to him, only asking for an ambulance to come to the scene. She told Officer Wright, "I want medical treatment, I have asthma, I can't breathe." § 87(2)(b) stated that Officer Wright simply ignored her requests again and continued processing her arrest.

§ 87(2)(b) also alleged that she requested Officer Wright and Officer Mendez's name and badge number multiple times, however, the officers refused to provide her with that information. § 87(2)(b) stated that she requested, "Their first names, last names and badge numbers", however both of the officers laughed at her saying, "Yeah right." § 87(2)(b) stated that she received their names by observing them on their badge plates and memorizing them.

An ambulance never arrived at the station house, and § 87(2)(b) was subsequently taken to Central Booking for further processing. § 87(2)(b) was also arrested for his role in the incident. Neither § 87(2)(b) nor § 87(2)(b) witnessed § 87(2)(b) interaction with the officers. Eventually, § 87(2)(b) § 87(2)(b) son's father) was called to the station house to take custody of § 87(2)(b) son. § 87(2)(b) obtained bruising to her arms, and area between her left shoulder and clavicle, and to her right pinky finger. After she was released from Central Booking, she admitted herself to § 87(2)(b) where she received an X-ray on her finger.

CCRB Photograph

- A photograph of § 87(2)(b) chest bruise taken on June 5, 2009, is enclosed [Enc. 2]. § 87(2)(b) appeared at the CCRB with her hand wrapped in a soft cast “ace” bandage.
§ 87(2)(b), § 87(2)(g)

Notice of Claim

- On § 87(2)(b), § 87(2)(b) filed notice of claim against the City of New York for an unspecified sum [Enc. 5A-C]. § 87(2)(b) provided a relatively substantial narrative on her claim and by doing so provided statements that were inconsistent from the previous testimony that she made to the CCRB. On the claim, § 87(2)(b) did not indicate that her bag was searched by Officer Wright, instead alleging that Officer Wright “found a small portion of a marijuana cigarette on the living room floor behind the couch.” She also made no mention of being choked by Officer Mendez, stating only, “Officer Mendez held me down and was screaming in my face to shut the fuck up, and spitting in my face as she screamed.” She also alleged that Officer Wright, not Lieutenant Lombardi, threatened her with both a taser gun and mace.

NYPD Statements:

Subject Officer: OFFICER ANTHONY WRIGHT, 104th PRECINCT

- *Officer Wright is a § 87(2)(b)-old light skinned black male who stands 5’8’’ and weighs 190 pounds. He has black hair and brown eyes.*
- *On May 25, 2009, Officer Wright worked from 3:00pm to 11:35pm and was assigned to patrol sectors CKM. He was dressed in uniform and was working with Officer Mendez, assigned to a marked RMP #4742 (Operator).*

Memo Book [Enc. 6A-C]

2125: 10-34 (assault in progress) @ § 87(2)(b)

2222: Female under, § 87(2)(b)

§ 87(2)(b) DOB: § 87(2)(b)

OLBS Arrest Report [Enc. 7A-C]

Officer Wright completed an arrest report for § 87(2)(b). On that report he noted, “[At] time and place of occurrence, § 87(2)(b) was being questioned in regards to an assault that had occurred at location at which time § 87(2)(b) became evasive and started giving false information. § 87(2)(b) then began yelling and screaming at arresting officer. When arresting officer asked § 87(2)(b) for ID, § 87(2)(b) began fumbling through her purse and tried to throw a marijuana cigarette on the floor. § 87(2)(b) did then continue to yell and scream at officers and began flailing her arms and trying to walk away to avoid being handcuffed”. Officer Wright noted that force was used to “restrain/control/remove” § 87(2)(b) from the scene. § 87(2)(b) was charged with resisting arrest, unlawful possession of marijuana, and disorderly conduct.

Criminal Court Complaint [Enc. 8A-B]

On May 26, 2009, Officer Wright completed a handwritten criminal court complaint for § 87(2)(b). The statements he provided on that complaint were consistent with his OLBS arrest report and his CCRB testimony.

CCRB Statement [Enc. 9A-C]

On August 4, 2009, Officer Anthony Wright was interviewed at the CCRB. On May 25, 2009, at approximately 9:25pm, Officer Wright and Officer § 87(2)(b) responded to an assault in progress at § 87(2)(b) § 87(2)(b). Lieutenant Lombardi and his operator were already at the scene. Officer Wright described the building as a two family house. Lieutenant Lombardi directed Officer Wright to go to the second story apartment of the building to ascertain the condition of the apartment and to speak to § 87(2)(b) who had apparently witnessed the incident.

Officer Wright walked upstairs and knocked on the door. He could not recall if Officer Mendez accompanied him up to the second floor. § 87(2)(b) answered the door, and Officer Wright informed § 87(2)(b) that they had information that an assault occurred within. § 87(2)(b) § 87(2)(b) allowed Officer Wright to enter the apartment to look around.

Inside, the apartment was a mess and a table was flipped upside down and there was broken glass in the kitchen area. § 87(2)(b) was the only person inside the apartment at the time, and Officer Wright could not recall observing a child inside. Officer Wright asked § 87(2)(b) § 87(2)(b) what happened. § 87(2)(b) was uncooperative, initially providing Officer Wright with a fake name and refusing to answer Officer Wright's questions. Officer Wright then requested § 87(2)(b) identification because he wanted to determine if § 87(2)(b) resided inside of the apartment. However, § 87(2)(b) refused to provide her identification. § 87(2)(b) began acting belligerently and called Officer Wright a "bitch ass nigger" and "spic cop".

§ 87(2)(b) eventually reluctantly reached into her bag to retrieve her identification. The bag was small, and Officer Wright could not describe how it opened. While § 87(2)(b) had her hand in the bag, she grabbed a marijuana cigarette from inside and threw it on the floor nearby. Officer Wright immediately identified the cigarette as containing marijuana by its appearance, referencing his previous professional experience and training with narcotics arrests. Officer Wright did not ask § 87(2)(b) to empty to contents of her bag, stating he only asked § 87(2)(b) to produce her identification. He could not recall any previous indication that marijuana was being smoked in this room prior to § 87(2)(b) action of throwing the marijuana cigarette on the floor. Officer Wright could not recall where Officer Mendez was while he was initially speaking with § 87(2)(b).

After seeing her throw the marijuana cigarette on the ground, Officer Wright directed § 87(2)(b) § 87(2)(b) to place her hands behind her back. § 87(2)(b) refused, and began swinging her arms preventing Officer Wright from handcuffing her. § 87(2)(b) placed her hands on Officer Wright's chest and pushed forward at least once. Officer Wright grabbed hold of one of § 87(2)(b) § 87(2)(b) arms by the forearm and pulled it behind her back. While he had hold of one of her arms he placed a handcuff around one of her wrists, § 87(2)(b) continued to swing her other arm not allowing Officer Wright to take hold of it. He was eventually able to grab her other arm and place both of her arms in handcuffs. During the struggle, § 87(2)(b) continued to direct a large volume of profanity at Officer Wright. Officer Wright could not recall § 87(2)(b) going to the ground during the incident, and believed she was handcuffed standing up. Officer Wright did not recall having to push § 87(2)(b) into a couch during the physical struggle. Officer Wright could not recall if any additional officers helped him gain control of § 87(2)(b) in order to handcuff her. While he was attempting to place her in handcuffs, he did not hear § 87(2)(b) complaining that she was unable to breathe. Officer Wright could not recall if Officer Mendez was involved in handcuffing § 87(2)(b).

After she was handcuffed, Officer Wright sat § 87(2)(b) on the couch. § 87(2)(b) continued to act belligerently, cursing at Officer Wright and kicking her legs at him. She did not strike him with her feet. Officer Wright did not come into physical contact with § 87(2)(b) while she was sitting on the couch; he just backed up to avoid her kicks. Officer Wright explained that Officer Mendez was in the room at some point, but he could not recall the specific timeframe she was present. Officer Mendez spoke to § 87(2)(b) § 87(2)(b) was directing discourteous

language towards Officer Mendez as well), although Officer Wright could not recall the details of their conversation. Officer Wright did not observe Officer Mendez slap or choke § 87(2)(b).

After § 87(2)(b) was restrained, Lieutenant Lombardi came upstairs to see what was going on. Lieutenant Lombardi came upstairs with his taser out in his hand, but not pointed at § 87(2)(b). At this point, § 87(2)(b) was on the couch handcuffed. Officer Wright speculated that Lieutenant Lombardi had his taser out due to § 87(2)(b) violent behavior. Officer Wright explained Lieutenant Lombardi likely did not know that § 87(2)(b) was handcuffed when he came upstairs, as he only heard her screaming and yelling from downstairs and assumed the situation was still volatile. When he arrived upstairs, Officer Wright did not recall hearing Lieutenant Lombardi threaten § 87(2)(b) that he was going to taser her or pepper spray her if she refused to calm down.

Officer Wright could not recall § 87(2)(b) ever indicating to him that she was injured. Throughout the incident, he did not direct any discourteous language towards § 87(2)(b). He implored her to “calm down” multiple times and explained that there was no need for discourteous language. He did not recall hearing Officer Mendez use any discourteous language during the incident. He did not recall hearing Officer Mendez call § 87(2)(b) a “fucking low life” or a “welfare bitch.”

After § 87(2)(b) was arrested, she was taken outside to an RMP and transported to the 104th Precinct station house. § 87(2)(b) remained irate and continued to act belligerently towards the officers. Once back at the station house, Officer Wright did not hear § 87(2)(b) complain of any injury or request medical attention. § 87(2)(b) requested Officer Wright’s name and badge number several times during the incident, although Officer Wright could not recall specifically how many times she requested this information. He stated he provided § 87(2)(b) with his name and badge number saying, “Officer Wright, Shield number 21501” providing § 87(2)(b) with this information multiple times, including at the scene and inside of the stationhouse.

Subject Officer: OFFICER MARITZA MENDEZ, 104th PRECINCT

- *Officer Mendez is a § 87(2)(b)-old Hispanic female who stands 5’4’’ inches tall and weighs 200 pounds. She has brown hair and brown eyes.*
- *On May 25, 2009, Officer Mendez worked from 4:00pm to 12:00am and was assigned to patrol sector CKM. She was dressed in uniform, and was working with Officer Wright in RMP #4742 (Recorder).*

Memo Book

Officer Mendez did not appear at the CCRB with a copy of her memo book. Despite a verbal agreement to forward a copy of her memo book to the investigator after the conclusion of her interview, Officer Mendez failed to forward the investigation a copy of her memo book entries in relation to this incident.

CCRB Statement [Enc. 10A-C]

On August 14, 2009, Officer Mendez was interviewed at the CCRB. § 87(2)(g) She verified the lead up to the incident explaining that they had responded a family dispute and arrived to find Lieutenant Lombardi and his operator Officer Marinacci already at the scene with § 87(2)(b) in custody. Officer Mendez stated that she initially accompanied Officer Wright upstairs to speak with § 87(2)(b). They knocked on the door of the apartment and § 87(2)(b) answered. They asked § 87(2)(b) what she observed, and she told them, “Nothing happened”, although the apartment was in disarray behind her.

Officer Mendez and Officer Wright went outside and told Lieutenant Lombardi what they observed. Lieutenant Lombardi told Officer Mendez to place § 87(2)(b) in her RMP, and Officer Wright went back upstairs to the room to get additional information from § 87(2)(b). Officer Mendez placed § 87(2)(b) in the car, and after about thirty seconds he began kicking and screaming “I can’t breathe! I can’t breathe!”, and proceeded to kick out the side window. This prompted Officer Mendez to call Emergency Service Unit (ESU) to come to the scene. At this point, Officer Mendez realized that Officer Wright was still upstairs by himself so she decided to go back up to the second floor to make sure he had the situation under control.

When she arrived back upstairs, Officer Wright had placed § 87(2)(b) in handcuffs and she was sitting on the couch. Officer Mendez recalled that § 87(2)(b) § 87(2)(b) year old son was also somewhere in the apartment, but at this point was in a different room. Officer Mendez was not involved in placing § 87(2)(b) in handcuffs. Officer Wright explained that § 87(2)(b) had given him a false name and had attempted to discard a marijuana cigarette in front of him. Officer Wright told her that § 87(2)(b) was “fighting” and that she had pushed him and resisted arrest when he tried to handcuff her. § 87(2)(b) was acting belligerently while sitting on the couch, screaming at Officer Wright and cursing, calling him “a nigger” and calling Officer Mendez a “spic.” § 87(2)(b) then began attempting to stand up from the couch and “advance towards” the officers. Officer Mendez told § 87(2)(b) “Listen you gotta stay down” and had to place her hand on § 87(2)(b) shoulder and pushed her back down towards the couch to prevent her from standing up. Since § 87(2)(b) was handcuffed, Officer Mendez did not have to exert a large amount of force in order to cause her to sit back down on the couch. Officer Mendez had to push § 87(2)(b) in the manner 4-5 times on her shoulder to prevent her from standing up. Officer Mendez denied ever placing § 87(2)(b) in a chokehold or having her body weight on top of § 87(2)(b) during the incident. She did not hear § 87(2)(b) complain that she could not breathe, appear short of breath or appear exasperated at any point during the incident. At one point, § 87(2)(b) began kicking at Officer Mendez while she was sitting on the couch. In response, Officer Wright had to grab § 87(2)(b) legs and pin them against the couch to prevent them from striking Officer Mendez. This differed from Officer Wright’s statements, as he denied coming into contact with § 87(2)(b) legs while she kicked at him. Officer Mendez denied slapping § 87(2)(b) in the face with an open hand while she was handcuffed.

Lieutenant Lombardi arrived at the apartment after hearing the commotion that was occurring inside. Unlike Officer Wright, Officer Mendez could not recall Lieutenant Lombardi having his taser gun out while he was upstairs. She denied hearing Lieutenant Lombardi direct discourteous language at § 87(2)(b) or threaten to taser her. Officer Mendez denied calling § 87(2)(b) a “welfare lowlife”, “a fucking bitch”, or otherwise directing the word “fuck” towards § 87(2)(b). Officer Mendez did not hear any officer at the scene curse at § 87(2)(b).

Since § 87(2)(b) had kicked out the window, § 87(2)(b) was transported to the 104th Precinct station house in a different RMP. Throughout the incident, § 87(2)(b) did not complain of any injuries. § 87(2)(b) did not appear injured and did not request medical treatment from the officers. Officer Mendez was not the arresting officer and did not assist Officer Wright in completing any of the arrest paper work. § 87(2)(b) never specifically vocalized her desire to obtain her name or shield during the incident. She remembered at one point during the incident § 87(2)(b) told her, “Oh, Mendez. I’m going to remember your name.” She did not hear § 87(2)(b) request this information from any other officer at the scene. Once she returned to the station house, Officer Mendez denied interacting with § 87(2)(b) and explained that she only observed her from afar inside the holding cell.

Subject Officer: LIEUTENANT JAMES LOMBARDI, 104th PRECINCT

- *Lieutenant Lombardi is § 87(2)(b)-old white male who stands 6'0'' tall and weighs 240 pounds. He is bald and has hazel eyes.*
- *On May 25, 2009, Lieutenant James worked from 2:45pm to 11:30pm and was the patrol supervisor. He was dressed in uniform and working with Officer Marinacci (who was his operator) and was assigned to RMP 4721.*

Memo Book [Enc. 11A-C]

2125- 10-34 § 87(2)(b)

2236 10-92C X2 by PO Mendez/Scariallo

CCRB Statement [Enc. 12A-C]

Officer Marinacci and Lieutenant Lombardi were the first unit to respond to the scene, after receiving a report of a family dispute in progress. They observed § 87(2)(b) sitting in front on the stoop covered in blood. The officers attempted to locate § 87(2)(b) and after raising central, they determined that she had gone around the corner to call the police. She eventually returned, and informed the officers that § 87(2)(b) had beaten her and also left the apartment in disarray. § 87(2)(b) also told the officers that there was another individual inside, § 87(2)(b) who had apparently witnessed the entire incident. § 87(2)(b) was then placed into the back seat of an RMP to await transport to the 104th Precinct station house. It appeared that both § 87(2)(b) and § 87(2)(b) were both heavily intoxicated.

Lieutenant Lombardi corroborated that he sent Officer Mendez and Officer Wright up to the second story apartment in order to speak with § 87(2)(b) about the incident. He believed that Officer Mendez and Officer Wright both went upstairs at the same time.

While waiting outside of the building for ESU to arrive to deal with § 87(2)(b) Lieutenant Lombardi heard a commotion § 87(2)(b) screaming) from the open windows of the second floor of the residence. Neither Officer Mendez nor Officer Wright called over the radio for assistance or yelled for Lieutenant Lombardi to come into the apartment. In response, he decided to go up to the apartment to make sure the situation was under control. When he entered the room he observed § 87(2)(b) in handcuffs sitting on the couch yelling expletives at the officers. Lieutenant Lombardi did not actually see a struggle between the officers and § 87(2)(b) but both officers appeared to be sweating which indicated to him that a struggle had just taken place. § 87(2)(b) was calling the officers provocative names, telling Officer Wright that he was a “nigger”, and calling Officer Mendez a “fat pig” and “slut.” § 87(2)(b) also made several profanity laced comments to Lieutenant Lombardi regarding his weight. Lieutenant Lombardi attempted to calm § 87(2)(b) down verbally, but § 87(2)(b) remained hysterical. He suspected that § 87(2)(b) was acting in the manner because she was intoxicated. Lieutenant Lombardi did not have a taser gun with him during the incident, and denied that he pointed a taser gun at § 87(2)(b). He was unsure if there were any other patrol supervisors on that date and tour, but explained that the taser was not in the vehicle he was assigned to that evening. He stated that there is no log or other document detailing who the taser gun is assigned to. Lieutenant Lombardi denied ever threatening to taser or mace § 87(2)(b) if she refused to calm down. He denied saying, “I suggest you shut the fuck up, or I’m going to use this taser on you. And if that doesn’t work, I’m going to use this mace on you.” Lieutenant Lombardi did not hear any officer at the scene use discourteous language.

Lieutenant Lombardi explained that § 87(2)(b) child had been in the other room, and that he managed to coordinate with the child’s father a scenario where he could meet him at the station house instead of notifying ACS. Eventually, § 87(2)(b) son was picked up from the station house by her parents. At the scene, § 87(2)(b) did not appear injured to Lieutenant Lombardi. When they returned to the station house, § 87(2)(b) was complaining that she had

shortness of breath and he believed that EMS was summoned to the station house to treat her asthma. Lieutenant Lombardi disclaimed that he resumed his duties as a patrol supervisor and was unsure if § 87(2)(b) actually received medical treatment as he was only at the station house briefly.

Officers Not Interviewed

Although Officer Marinacci, Officer Sadler, and Officer Collado had all responded to the scene, both § 87(2)(b) and the officers interviewed indicated that none of the aforementioned officers witnessed any of the alleged misconduct in question. Therefore, they were not called to the CCRB to be interviewed.

Medical Records

- § 87(2)(b) pre-arraignment screening form indicates that she had a “cold” when she was admitted to Queens Central Booking, but she does not complain of any injuries otherwise and is visually assessed as “stable” [Enc. 13B-C]. On that form, § 87(2)(b) denied having a past history of asthma.
- On § 87(2)(b), § 87(2)(b) admitted herself to § 87(2)(b) [Enc. 13D-S]. § 87(2)(b) was observed to have bruising to her upper right chest and upper right arm as well as swelling to her right pinky finger. § 87(2)(b) received an X-ray on her right hand, which revealed no fracture or other abnormality. § 87(2)(b) was diagnosed with bruising to her arm, chest wall, and a contusion to her pinky finger. She was discharged at § 87(2)(b) with a prescription to Motrin. § 87(2)(b) medical records confirm § 87(2)(b) suffers from asthma, although she was not treated for symptoms associated with her asthma while at the hospital.

NYPD Documents

- The SPRINT print-out from this incident is enclosed [Enc. 14A-B]. A recording of the 911 calls and police communication was also obtained from the NYPD communications division. A review of the aforementioned in concert detailed the following chronology:
 - At 9:26pm, § 87(2)(b) called 911 from a payphone down the block from § 87(2)(b) to report that § 87(2)(b) had assaulted her. § 87(2)(b) stated that she was injured as result of the assault.
 - At 9:26pm, Lieutenant Lombardi and Officer Marinacci arrived at the scene.
 - At 9:30pm, Officer Wright and Officer § 87(2)(b) arrived at the scene.
 - At 9:39pm, Officer Mendez requests ESU to the scene to deal with § 87(2)(b). Officer Mendez requests Emergency Services come to the scene to place § 87(2)(b) in a full body restraining device.
 - At 9:40pm, an ambulance arrives at the scene.
 - At 9:43pm, sector A (Officer Sadler and Officer Collado) arrived at the scene.
 - At 9:51pm, Emergency Service Unit arrives at the scene.
 - At 9:56pm, the ESU unit reported that there are “two EDPs” at scene, one has been “bagged” (placed in full body restraint) and the other was in police custody.
 - At 10:10pm, § 87(2)(b) son is removed from the scene and brought to the 104th Station house in RMP 4186.
 - At 10:10pm, § 87(2)(b) is brought to the station house. When sector A radios that they are en route to the station house, § 87(2)(b) voice is audible yelling in the background.
 - At 10:21pm, Emergency Services radios that they are transporting § 87(2)(b) to § 87(2)(b).

- At 10:22pm, Lieutenant Lombardi verifies § 87(2)(b) and § 87(2)(b) arrest.
- At 11:39pm, the job is closed as 92C (crime arrest).
- The 104th Precinct command log from May 25, 2009, is enclosed [Enc. 18A-C]. At 10:15pm, Officer Wright stamps § 87(2)(b) arrest into the command log, charging her with disorderly conducted, resisting arrest, and unlawful possession of marijuana. Her physical condition is noted as “apparently normal”. § 87(2)(b) was taken to Queens Central Booking in May 26, 2009, at 1:50am.
 - The command log also verifies that Lieutenant Lombardi was the only working supervisor during the incident time.

Arrest for Incident and Disposition

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Status of Civil Proceedings

- § 87(2)(b) filed a notice of claim with the City of New York on § 87(2)(b) claiming false arrest and physical injury as a result of this incident [Enc. 5A-C]. § 87(2)(b) was seeking an undisclosed sum. As on February 19, 2010, the status of § 87(2)(b) civil case is still pending. There have not been any 50H hearings.

Civilian Criminal History [Enc. 22A-Y]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
 [REDACTED]
 [REDACTED]
- [REDACTED]
 [REDACTED]
 [REDACTED]
 - [REDACTED]
 [REDACTED]
 [REDACTED]
 - [REDACTED]
 [REDACTED]
- [REDACTED]
 [REDACTED]
- [REDACTED]
 [REDACTED]
 - [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) [Enc. 1].

Subject Officer CCRB History

- Lieutenant Lombardi has been a member of the service for 19 years and there are no substantiated CCRB allegations against him [Enc. VIII-X].

- Officer Mendez has been a member of service for 15 years and there are no substantiated CCRB allegations against her [Enc. VII].
- Officer Wright has been a member of service for 5 years and there are no substantiated CCRB allegations against him [Enc. VI].

Conclusion

Identification of Subject Officers

- Officer Wright, Officer Mendez, and Lieutenant Lombardi all verified that they interacted with § 87(2)(b) during the incident.

Investigative Findings and Recommendations

Allegations Not Pleaded

- § 87(2)(g) [REDACTED]
- § 87(2)(g) [REDACTED]

Allegation A) Discourtesy: Officer Anthony Wright spoke rudely to § 87(2)(b) inside of § 87(2)(b)

§ 87(2)(b) alleged that Officer Wright directed profanity at her numerous times during the incident, specifically saying “tell me the fucking truth” and later “sit the fuck down and shut up.” Officer Wright denied using such language, and no other officer testified that they overheard him using discourteous language. All of the officers interviewed stated that § 87(2)(b) spent the majority of the incident yelling and cursing at the officers. On his criminal court complaint, Officer Wright notes that § 87(2)(b) him several disparaging names, such as “bigger punk ass cop”. § 87(2)(b) framed her conversation with the officers as “exerting her first amendment right”, § 87(2)(g)

It is not disputed that § 87(2)(b) was non-complaint during her arrest and acting disorderly. § 87(2)(g)

Allegation B) Force: Officer Anthony Wright used force against § 87(2)(b) inside of § 87(2)(b)

Allegation C) Force: Officer Maritza Mendez used force against § 87(2)(b) inside of § 87(2)(b)

§ 87(2)(g)

First, there are several indications that § 87(2)(b) was intoxicated and acting belligerently during the incident. § 87(2)(b) acknowledged that she had consumed a moderate amount of vodka and was slightly intoxicated before the incident took place. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) explained after Officer Wright brought out the handcuffs; she became frightened and began screaming for the officer's to call her son's father. Officer Wright apparently reacted by grabbing her by the back of the neck and pushed her downwards into an adjacent couch. Once her torso was against the couch, § 87(2)(b) explained that she attempted to turn her neck around not to resist, but out of concern for her young son. At that point, she felt the officers' weight on top of her before feeling the officers pull her arms behind her back and place her in handcuffs and allowed her to sit on the couch. She elaborated later that she still "wanted to see her son" which caused her to attempt to stand up while in handcuffs to observe her son. In reaction Officer Wright apparently pushed her back down into the couch several times to force her to sit back down. § 87(2)(b) also stated that at one point Officer Wright grabbed § 87(2)(b) leg and twisted it awkwardly while stating "stop kicking your legs!" § 87(2)(b) denied kicking her legs.

§ 87(2)(g)

Officer Wright and Officer Mendez both believed that Officer Wright managed to handcuff § 87(2)(b) alone. § 87(2)(g)

Officer Mendez § 87(2)(g) explained that after § 87(2)(b) was handcuffed, she was infuriated with Officer Wright and began kicking her legs out at him. Although Officer Wright denied grabbing § 87(2)(b) legs, Officer Mendez explained that Officer Wright had to hold down § 87(2)(b) legs to restrain her during the incident. Officer Mendez also corroborated that § 87(2)(b) had to be subdued by the officers even after she was restrained as she kept attempting to get up off the couch. § 87(2)(b) stated she was doing so to "see her son", while Officer Mendez said it appeared that she was attempting to go "advance towards" Officer Wright. In either event, Officer Mendez verified that she had to push § 87(2)(b) back down onto the couch several times to prevent her from getting up (which differs from § 87(2)(b) statements, as she alleged Officer Wright pushed her down onto the couch), causing a bruise to § 87(2)(b) chest.

§ 87(2)(g)

§ 87(2)(g)

Allegation D) Force: Officer Maritza Mendez used a chokehold against § 87(2)(b) inside of § 87(2)(b) § 87(2)(b)

§ 87(2)(b) alleged that while she was restrained on the couch in handcuffs and speaking with the officers, Officer Mendez took both of her hands and placed them around her neck, squeezing for approximately one minute and thus constricting her breathing. Officer Mendez denied placing § 87(2)(b) in such a maneuver, and Officer Wright denied observing Officer Mendez place § 87(2)(b) into a chokehold position. Both officers denied seeing § 87(2)(b) appear short of breath or exasperated during the incident.

§ 87(2)(g)

§ 87(2)(b) received medical treatment for minor injuries several days after the incident, she made no complaints of neck pain, made no mention of being choked to medical personnel, and had no bruising or other semblance of injury around her neck area. § 87(2)(g)

While she alleged to both IAB and the CCRB that she was “choked” by Officer Mendez, when she filed her Notice of Claim she made no mention of being choked, only stating that she was “held down” and screamed at by Officer Mendez. § 87(2)(g)

Allegation E) Discourtesy: Officer Maritza Mendez spoke rudely to § 87(2)(b) inside of § 87(2)(b) § 87(2)(b)

§ 87(2)(b) alleges that Officer Mendez directed a litany of discourteous language towards her during the incident, using the word “fuck” in multiple contexts and also calling her a “welfare lowlife” after observing § 87(2)(b) welfare benefits card. Officer Mendez denied directing any discourteous names or cursing at § 87(2)(b) during the incident, and Officer Wright stated that he did not hear Officer Mendez use such language during the incident. § 87(2)(g)

Allegation F) Abuse of Authority: Lieutenant James Lombardi threatened § 87(2)(b) with the use of force inside of § 87(2)(b) § 87(2)(b)

§ 87(2)(b) alleged that towards the end of the incident inside of § 87(2)(b) § 87(2)(b) Lieutenant Lombardi appeared in the apartment. Once inside, Lieutenant Lombardi allegedly

the 104th Precinct station house. § 87(2)(b) stated that that she requested medical treatment because she had asthma and couldn't breathe. § 87(2)(b) went to the hospital on § 87(2)(b), where it was determined that she sustained minor bruising as a result of the incident. Although she was not complaining of asthmatic symptoms while at the hospital, her medical records do verify that § 87(2)(b) is asthmatic.

The three officers interviewed provided conflicting statements. Both Officer Wright and Officer Mendez denied hearing § 87(2)(b) request medical treatment during this incident. They both stated that § 87(2)(b) did not appear injured, short of breath, or exasperated during the incident. On the contrary, Lieutenant Lombardi stated that § 87(2)(b) was complaining that she was having trouble breathing at the 104th Precinct station house. He also stated that he believed EMS came to the station house to provide her with medical treatment. Checks with the FNDY and reviews of the SPRINT log from that evening do not indicate that an ambulance responded to the 104th Precinct station house to provide § 87(2)(b) with treatment.

§ 87(2)(g)
The SPRINT log indicates that an ambulance had also arrived at the scene due to § 87(2)(b) statement that she was injured in her 911 call. § 87(2)(g)

At the stationhouse, § 87(2)(b) stated she once again requested medical treatment from Officer Wright when he came to holding cell to apologize for how the night had unfolded, a fact which Officer Wright denies. § 87(2)(g)

§ 87(2)(g)

Allegation H) Abuse of Authority: Officer Anthony Wright refused to provide his name and shield number to § 87(2)(b) inside of the 104th Precinct station house.

Allegation I) Abuse of Authority: Officer Maritza Mendez refused to provide her name and shield number to § 87(2)(b) inside of the 104th Precinct station house:

§ 87(2)(b) alleged that she asked both Officer Mendez and Officer Wright for their names and badge numbers while being lodged inside of a holding cell inside of the 104th station house. The officers allegedly replied, “Yeah right” and did not provide § 87(2)(b) with this information. § 87(2)(b) was somewhat consistent with her allegation, as she alleged that the officers refused to provide their names and shield numbers in both her initial intake call to the CCRB and in her notice of claim. § 87(2)(b) stated that she obtained the information as she was able to observe and remember the officers’ badge numbers of their name plates and memorized them during the incident.

Both Officer Mendez and Officer Wright acknowledged during their respective interviews that § 87(2)(b) was attempting to retrieve their names in some way during the incident. Officer Wright confirmed that § 87(2)(b) requested his name and badge number several times during the incident. He stated he provided § 87(2)(b) with his name and badge number after her requests by saying, “Officer Wright, Shield number 21501”, stating that § 87(2)(b) requested this information from him at the scene and in the station house. Officer Mendez did not hear § 87(2)(b) specifically requesting her name or badge number from her, but recalled § 87(2)(b) telling her, “Oh, Mendez. I’m going to remember your name” while at the scene.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

:

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date